

APPENDIX B

Results of Survey of
Secure Leave Rules of
Sample Jurisdictions

Virginia
South Carolina
Georgia
Florida
Texas
California
Oregon
Illinois
Massachusetts

Summary of Rules Governing Attorney Leave in Virginia, Florida, & Georgia

Virginia

- Protected leave periods are only available to attorney-members of the Virginia State Assembly during periods of service.

Florida

- The Florida Supreme Court recently promulgated a rule providing civil trial attorneys with 9 weeks of protected parental leave. The rule does not address similar leave periods for criminal trial attorneys, domestic trial attorneys, etc.

Georgia

Of the jurisdictions surveyed so far, Georgia has the most well-developed set of rules governing attorney leave:

Rule 16.1

- Applicability
 - o Applies applications for leaves of 30 days or less;
 - o Applies only to actions not already on a published calendar and requiring the attorney's appearance or actions not already noticed for hearing;
 - o Per Georgia State Bar Deputy Counsel – there is no limitation on the number of leaves of absence an attorney can take under Rule 16.1.
- Notice
 - o Must be submitted to the Clerk of Court at least 30 calendar days prior to the effective date of the leave;
 - o Must identify the actions to be protected during the attorney's leave of absence, the reason for the leave of absence, and the duration of the leave.
- Procedure
 - o Clerk of Court notifies opposing counsel(s) and the appropriate judges contemporaneously to receiving notice of the application for leave;
 - o Opposing counsel has ten days to object to the notice of leave;
 - o If opposing counsel does not object, the application for leave stands granted as a matter of course and without entry of an order;
 - o If opposing counsel objects, the appropriate judge conducts a conference with all counsel to determine whether the application leave will be granted by order.

Rule 16.2

- Applicability
 - o Applies to requests for leaves of absence of more than 30 days, cases on a public calendar or noticed for hearing, or applications for leave not submitted within the time limits contained in Rule 16.1.

- Notice
 - Notice of the application for leave must be filed with the Clerk of Court and served upon opposing counsel(s) at least 10 days prior to its submission to the court;
 - The 10-day notice period may be waived in opposing counsel(s) consent to the application for leave;
 - Contents of notice mirror those set forth in Rule 16.1.
- Procedure
 - Opposing counsel(s) has the option of objecting or consenting to the application for leave;
 - Regardless of opposing counsel(s) position, whether to grant an application for leave is in the court's discretion. All applications under Rule 16.2 are therefore granted by court order.

Ga. R. Sup. Ct. 16.1

Rule 16.1 - Leaves for Thirty (30) Calendar Days or Less

An attorney of record shall be entitled to a leave of absence for thirty days or less from court appearance in pending matters which are neither on a published calendar for court appearance, nor noticed for a hearing during the requested time, by submitting to the clerk of the court at least thirty (30) calendar days prior to the effective date for the proposed leave, a written notice containing:

- (a) a list of the actions to be protected, including the action numbers;
- (b) the reason for leave of absence; and
- (c) the duration of the requested leave of absence.

A copy of the notice shall be sent, contemporaneously, to the judge before whom an action is pending and all opposing counsel. Unless opposing counsel files a written objection within ten (10) days with the clerk of the court, with a copy to the court and all counsel of record, or the court responds denying the leave of absence, such leave will stand granted without entry of an order. If objection is filed, the court, upon request of any counsel, will conduct a conference with all counsel to determine whether the court will, by order, grant the requested leave of absence.

The clerk of the court shall retain leave of absence notices in a chronological file for two (2) calendar years; thereafter, the notices may be discarded.

Ga. R. Sup. Ct. 16.1

Ga. R. Sup. Ct. 16.2

Rule 16.2 - Leaves for more than Thirty (30) Calendar Days or those either on a published calendar, noticed for a hearing, or not meeting the Time Requirements of 16.1 above

Application for leave of absence for more than thirty (30) calendar days, or those either on a published calendar, noticed for a hearing, or not submitted within the time limits contained in 16.1 above, must be in writing, filed with the clerk of the court, and served upon opposing counsel at least 10 days prior to submission to the appropriate judge of the court in which the action pends. This time period may be waived if opposing counsel consents in writing to the application. This procedure permits opposing counsel to object or to consent to the grant of the application, but the application is addressed to the discretion of the court. Such application for leave of absence shall contain:

- (a) a list of the actions to be protected, including the action number;
- (b) the reason for leave of absence; and
- (c) the duration of the requested leave of absence.


Ga. R. Sup. Ct. 16.2

Ga. R. Sup. Ct. 16.3

Rule 16.3 - 16.1 or 16.2 Leave

A 16.1 or 16.2 leave when granted shall relieve any attorney from all trials, hearings, depositions and other legal appearances in that matter. This rule shall not extend any deadline set by law or the court.

Ga. R. Sup. Ct. 16.3

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Ga. R. Sup. Ct. 16.4

Rule 16.4 - Denial of Application for Leave

Any application for leave not filed in conformance with this rule will be denied. Notice shall be provided substantially as on the attached form.

To: All Judges, Clerks of Court, and Counsel of Record

From: Name of Attorney

RE: Notice of Leave of Absence

Date:

Comes now (attorneys name) and respectfully notifies all judges before whom s/he has cases pending, all affected clerks of court, and all opposing counsel, that s/he will be on leave pursuant to Georgia Uniform Court Rule 16.

1. The period of leave during which time Applicant will be away from the practice of law, is: (dates of leave). The purpose of the leave is: (dates of leave). The purpose of the leave is

2. All affected judges and opposing counsel shall have ten days from the date of this Notice to object to it. If no objections are filed, the leave shall be granted.

name of attorney

Bar no.

address of attorney

phone number of attorney

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing Notice of Leave of Absence upon all judges, clerks and opposing counsel listed on the attached Exhibit A, by depositing the same in the U.S. Mail with adequate postage affixed thereto.

This _____ day of _____, ____.

Name of attorney

EXHIBIT A

(Sample)

Name of Case Name of Judge Opposing Counsel

Case Number Court/County

Jones v. Jones Brown opp. atty. A

98 3333 DeKalb/Superior (address)


Smith v. Exxon Black opp. atty. B

97A 454545 Cobb/State (address)

Schwartz v. Craig & Co. Grey opp. atty. C

E 6789 Fulton/Superior (address)

Ga. R. Sup. Ct. 16.4

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California:	Treated as matter of professionalism. Requires advance notice to court and opposing counsel.
Illinois:	No comparable policy or procedure.
Massachusetts:	Has established a committee to study the policy; acknowledges North Carolina has been a leader in this area.
Oregon:	No comparable policy or procedure.
South Carolina:	No comparable policy or procedure.
Texas:	Local rules, an exemplar of which is Fort Bend County. (See attached). The Well Being Committee of the Texas State Bar began a study in 2018 in pursuit of a statewide effort at uniformity.

CGB\NC State Bar Council\M\042States

FORT BEND COUNTY TEXAS LOCAL RULE 11

11. VACATIONS OF COUNSEL.

11.1. DESIGNATION OF VACATION. An attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the trial court expands coverage to other counsel.

11.2. SUMMER VACATIONS. Written designation for vacation weeks during June, July, or August must be filed with the district clerk by May 15. Summer vacation weeks so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the vacation designation was filed.

11.3. NON-SUMMER VACATIONS. Written designation for vacation in months other than June, July, or August must be filed with the district clerk by February 1. Non-summer vacation weeks may not run consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.